

MONTANA LEGISLATIVE HISTORY

Chapter 768 19 91

Bill H _____ S 58 Original bill & history ✓C

H. Committee on Judiciary

Hearing Date(s) Mar 8 ✓C

Mar 9 ✓C

_____C

_____C

Date Out Mar 12 ✓C

S. Committee on Judiciary

Hearing Date(s) Jan 21 ✓C

Feb 4 ✓C

_____C

_____C

Feb 4 ✓C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

Note, A free conference committee
was appointed. Its minutes were
not recorded.

1/08	FIRST READING		
1/21	HEARING		
1/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/24	2ND READING PASSED	50	0
1/25	3RD READING PASSED	49	0
TRANSMITTED TO HOUSE			
1/26	FIRST READING		
1/26	REFERRED TO JUDICIARY		
2/08	HEARING		
2/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
2/12	2ND READING CONCURRED	53	45
2/13	3RD READING CONCURRED	66	34
RETURNED TO SENATE WITH AMENDMENTS			
2/15	2ND READING AMENDMENTS NOT CONCURRED	49	0
3/06	CONFERENCE COMMITTEE APPOINTED		
4/19	CONFERENCE COMMITTEE REPORT NO. 1		
4/19	2ND READING CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	49	0
4/20	3RD READING CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	47	0
HOUSE			
3/08	CONFERENCE COMMITTEE APPOINTED		
4/19	CONFERENCE COMMITTEE REPORT NO. 1		
4/19	2ND READING MOTION TO DO NOT ADOPT CONFERENCE		
	COMMITTEE REPORT NO. 1 FAILED	45	53
	(2ND READING CONFERENCE COMMITTEE REPORT		
	NO. 1 ADOPTED)		
4/20	3RD READING CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	50	48
4/24	SIGNED BY PRESIDENT		
4/25	SIGNED BY SPEAKER		
4/25	TRANSMITTED TO GOVERNOR		
4/27	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 710		

EFFECTIVE DATE: 10/01/91

SB 58 INTRODUCED BY YELLOWTAIL
 REVISE LAW RELATING TO PAYMENT OF MEDICAL/CONFINEMENT
 COSTS OF INCARCERATED
 BY REQUEST OF ADULT & JUVENILE DETENTION, JOINT
 INTERIM SUBCOMMITTEE ON

1/07	INTRODUCED		
1/08	REFERRED TO JUDICIARY		
1/08	FIRST READING		
1/08	FISCAL NOTE REQUESTED		
1/14	FISCAL NOTE RECEIVED		
1/21	HEARING		
1/21	FISCAL NOTE PRINTED		
2/05	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/06	2ND READING PASSED	48	0
2/07	3RD READING PASSED	44	5
TRANSMITTED TO HOUSE			
2/09	FIRST READING		
2/09	REFERRED TO JUDICIARY		
3/08	HEARING		
3/08	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/14	2ND READING CONCURRED	93	5
3/15	3RD READING CONCURRED	92	7
RETURNED TO SENATE WITH AMENDMENTS			
3/23	2ND READING AMENDMENTS NOT CONCURRED	47	0
3/28	CONFERENCE COMMITTEE APPOINTED		

4/22	CONFERENCE COMMITTEE DISSOLVED		
4/22	FREE CONFERENCE COMMITTEE APPOINTED		
4/24	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/25	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	49	0
4/25	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	47	2
HOUSE			
4/03	CONFERENCE COMMITTEE APPOINTED		
4/23	CONFERENCE COMMITTEE DISSOLVED		
4/23	FREE CONFERENCE COMMITTEE APPOINTED		
4/24	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/25	2ND READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	90	8
4/25	3RD READING FREE CONFERENCE COMMITTEE		
	REPORT NO. 1 ADOPTED	87	12
5/03	SIGNED BY PRESIDENT		
5/03	SIGNED BY SPEAKER		
5/03	TRANSMITTED TO GOVERNOR		
5/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 768		

EFFECTIVE DATE: 10/01/91

SB 59 INTRODUCED BY YELLOWTAIL
 PROHIBIT PLACEMENT OF YOUTH NEEDING SUPERVISION IN
 JAIL OR SECURE DETENTION
 BY REQUEST OF ADULT & JUVENILE DETENTION, JOINT
 INTERIM SUBCOMMITTEE ON

1/07	INTRODUCED		
1/08	REFERRED TO JUDICIARY		
1/08	FIRST READING		
1/08	FISCAL NOTE REQUESTED		
1/14	FISCAL NOTE RECEIVED		
1/15	FISCAL NOTE PRINTED		
1/17	HEARING		
1/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/22	2ND READING PASSED	49	0
1/23	3RD READING PASSED	50	0
TRANSMITTED TO HOUSE			
1/24	FIRST READING		
1/24	REFERRED TO JUDICIARY		
2/07	HEARING		
2/11	COMMITTEE REPORT—BILL CONCURRED		
2/16	2ND READING CONCURRED	90	4
2/18	3RD READING CONCURRED	86	13
RETURNED TO SENATE			
2/22	SIGNED BY PRESIDENT		
2/23	SIGNED BY SPEAKER		
2/23	TRANSMITTED TO GOVERNOR		
2/27	RETURNED TO SENATE WITH GOVERNOR'S AMENDMENTS		
3/23	2ND READING GOVERNOR'S AMENDMENTS		
	CONCURRED	47	0
3/25	3RD READING GOVERNOR'S AMENDMENTS		
	CONCURRED	48	0
TRANSMITTED TO HOUSE			
4/08	2ND READING GOVERNOR'S AMENDMENTS		
	CONCURRED	94	0
4/09	3RD READING GOVERNOR'S AMENDMENTS		
	CONCURRED	97	0
RETURNED TO SENATE			
4/17	SIGNED BY PRESIDENT		
4/18	SIGNED BY SPEAKER		

SENATE BILL NO. 58

INTRODUCED BY YELLOWTAIL
BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
ON ADULT AND JUVENILE DETENTION

IN THE SENATE

JANUARY 8, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 5, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 6, 1991	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 7, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 44; NOES, 5.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 7, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
FEBRUARY 9, 1991	FIRST READING.
MARCH 12, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
March 13, 1991	SECOND READING, PASS CONSIDERATION.
MARCH 14, 1991	SECOND READING, CONCURRED IN.
MARCH 15, 1991	THIRD READING, CONCURRED IN. AYES, 92; NOES, 7.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 15, 1991	RECEIVED FROM HOUSE.
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MARCH 23, 1991

SECOND READING, AMENDMENTS NOT
CONCURRED IN.

ON MOTION, CONFERENCE COMMITTEE
REQUESTED.

MARCH 28, 1991

CONFERENCE COMMITTEE APPOINTED.

IN THE HOUSE

APRIL 3, 1991

ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 22, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE HOUSE

APRIL 23, 1991

ON MOTION, CONFERENCE COMMITTEE
DISSOLVED.

ON MOTION, FREE CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 24, 1991

FREE CONFERENCE COMMITTEE REPORTED.

APRIL 25, 1991

SECOND READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

THIRD READING, FREE CONFERENCE
COMMITTEE REPORT ADOPTED.

IN THE HOUSE

APRIL 25, 1991

FREE CONFERENCE COMMITTEE
REPORT ADOPTED.

IN THE SENATE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

AMENDMENTS CONCURRED IN.

IN THE HOUSE

APRIL 29, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 58
2 INTRODUCED BY Yellowtail
3 BY REQUEST OF THE JOINT INTERIM SUBCOMMITTEE
4 ON ADULT AND JUVENILE DETENTION
5

6 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE PAYMENT
7 OF CONFINEMENT COSTS BY THE AGENCY OR AUTHORITY AT WHOSE
8 INSTANCE AN INMATE IS CONFINED; REQUIRING OUT-OF-STATE
9 JURISDICTIONS TO PAY THE CONFINEMENT COSTS OF INMATES HELD
10 ON THEIR BEHALF; REQUIRING CITIES AND TOWNS TO PAY CERTAIN
11 MEDICAL COSTS OF ARRESTED PERSONS; AND AMENDING SECTIONS
12 7-32-2222 AND 7-32-2242, MCA."
13

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 **Section 1.** Section 7-32-2222, MCA, is amended to read:

16 "7-32-2222. Health and safety of prisoners. (1) Each
17 detention center must comply with state and local fire codes
18 for correctional occupancy and with sanitation, safety, and
19 health codes.

20 (2) Designated exits must permit prompt evacuation of
21 inmates and detention center staff in an emergency.

22 (3) When there is good reason to believe that the
23 inmates may be injured or endangered, the detention center
24 administrator must remove them to a safe and convenient
25 place and confine them there as long as necessary to avoid

1 the danger.

2 (4) If in the opinion of the detention center
3 administrator an inmate under his jurisdiction requires
4 medication, medical services, or hospitalization, the
5 expense must be borne by the agency or authority at whose
6 instance the inmate was arrested when the arresting agency
7 or authority is not the county in which the inmate is
8 confined, except that if a city or town commits a person to
9 the detention center of the county in which the city or town
10 is located for a reason other than detention pending trial
11 for or detention for service of a sentence for violating an
12 ordinance of that city or town, the expense must be paid by
13 the county. The county attorney shall initiate proceedings
14 to collect from the inmate any charges arising from the
15 medical services or hospitalization for the inmate involved
16 if he determines the inmate is financially able to pay.

17 (5) Notwithstanding any other provision of law, a city
18 or town is liable for payment of medical costs incurred by a
19 person arrested under its authority if that person is not
20 subsequently confined in a detention center for a violation
21 of state law."

22 **Section 2.** Section 7-32-2242, MCA, is amended to read:

23 "7-32-2242. Use of detention center -- payment of
24 costs. (1) Local government, state, and federal law
25 enforcement and correctional agencies may use any detention

center for the confinement of arrested persons and the punishment of offenders, under conditions imposed by law and with the consent of the governing body responsible for the detention center.

(2) If a person is ~~committed-to~~ confined in a detention center by ~~a-government--unit~~ an agency or authority not responsible for the operation of the detention center, the ~~committing-government-unit-shall-pay-the~~ costs of holding the person in confinement ~~as-agreed-upon-by-the-government unit-and-the-detention-center~~ must be paid by the agency or authority at whose instance the person is confined, except that if a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the costs must be paid by the county. Payments must be made to the government unit responsible for the detention center or to the administrator operating a private detention center under an agreement provided for in 7-32-2201, upon presentation of a claim to the ~~committing-government-unit~~ agency or authority at whose instance the person is confined.

(3) If a person is a fugitive from justice from an out-of-state jurisdiction, the costs, including medical expenses, of holding the person in a detention center

pending extradition must be paid by the out-of-state jurisdiction."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0058, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill for an act entitled: "An act requiring the payment of confinement costs by the agency or authority at whose instance an inmate is confined; requiring out-of-state jurisdictions to pay the confinement costs of inmates held on their behalf; requiring cities and towns to pay certain medical costs of arrested persons; and amending sections 7-32-2222 and 7-32-2242, MCA."

ASSUMPTIONS:

1. This bill requires the payment of confinement and other costs by the agency or authority at whose action an inmate is confined.
2. Assume the Department of Institutions is responsible for the confinement of probationers and parolees. The probationers will have 9,925 days at \$35 per/day= \$347,375 per year.
3. Expense for parolees' confinement in jail already is requested in Correction's program modified budget at \$66,990 each year of the 1993 biennium.
4. Assume Department of Institutions pays medical costs incurred in conjunction with the arrest of a parolee or probationer. The department is unable to calculate the potential fiscal impact of responsibility for the arrest-related medical costs.
5. Highway Patrol incarceration costs per prisoner day will increase 10% per year in the 1992-93 biennium due to removing "as agreed upon" language.
6. Medical costs for Highway Patrol prisoners will be \$50,000 each year of the biennium.
7. Pine Hills School and Mountain View School estimate that they each have 10 youth per year which are runaways and are detained an average of two days at a local facility.
8. If local youth detention facilities are available 7/1/92 then the runaway youth will be detained in them instead of other local facilities. Costs at a youth detention facility is a county responsibility.

FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning

1-14-91
DATE

WILLIAM YELLOWTAIL, PRIMARY SPONSOR

DATE

Fiscal Note for SB0058, as introduced

5858

HEARING ON SENATE BILL 58Presentation and Opening Statement by Sponsor:

Senator Joe Mazurek, District 23, presented SB 58 in the absence of Senator Yellowtail, sponsor of the bill. Senator Mazurek explained that SB 58 is another product of the Joint Interim Subcommittee on Adult and Juvenile Detention.

Senator Mazurek said section 1 of the bill requires local governments to be responsible for preconfinement medical costs of indigent prisoners, if a prisoner is not ultimately charged with violation of state law. He told the Committee section 2 addresses per diem costs for out-of-state persons being detained for the feds or those being returned to other jurisdictions. Senator Mazurek said the bill allows for recovery of medical costs from other jurisdictions.

Senator Mazurek stated the Committee needs to be aware that someone can be confined or detained in a state- or county-operated facility, but be brought in by other authorities. He said the Committee may need to rely on information from the Subcommittee regarding the intent of the bill.

Proponents' Testimony:

Peter Funk, Assistant Attorney General, Department of Justice, told the Committee he supported efforts to clarify medical and per diem funding costs. He explained that section 1 deals only with post-incarceration costs. Mr. Funk said pre-incarceration costs apply to person taken to medical treatment before they are taken to jail (Deaconess Hospital vs. Johnson). He stated post-sentencing costs are those occurring after sentencing, but while the person is not yet in prison (Wilson vs. Missoula County).

Mr. Funk commented that major chunks of costs are not addressed by current law, and that as Scott Chrichton said, this is an area for legislative action. Mr. Funk provided a marked-up copy of the bill draft (Exhibit #7), and said costs are split along two lines, one of which is looking to the arresting agency or law under which an individual is charged.

Mr. Funk stated that if the language "agency or authority" is used, it will be nearly impossible to come up with a fiscal note because there will be too many different interpretations. He suggested changing the language to "arresting agency" for clarification.

Chairman Pinsoneault asked if the Department of Justice were represented on the Interim Subcommittee. Mr. Funk replied it was, and apologized for not bringing the proposed language up earlier. He said the Montana Highway Patrol was paying in excess of \$100,000 annually in such instances. Mr. Funk added that page 3, line 8 of

the bill, addressing "costs" is completely undefined in the bill. He said there is no way to determine or limit application of that term, and that the 1989 legislative language causes 50 different contracts, depending upon where an arrest is made.

Gordon Morris, MACO, requested that the Committee investigate the intent of the Subcommittee and then table the bill.

Jim Pomroy, Chief, Community Corrections Bureau, Department of Institutions (DOI), read from prepared testimony, and requested a \$66,900 appropriation to meet expenses outlined in the bill. He requested that language either specifically exclude DOI from confinement costs or specifically include the funds to meet these costs.

Opponents' Testimony:

John Nugent, City Attorney, Missoula, provided the Committee with written testimony (Exhibit #8). He stated his concern that language in section 1, subsection 5 relating to indigency would make cities and towns responsible for all criminal defendants, because the language is so broad.

Mr. Nugent suggested that county officials could manipulate confinement to avoid medical cost responsibility, and said he was concerned about possible violation of the Drake Amendment.

Bruce McCandless, Assistant Administrator, City of Billings, said his view were mostly the same as those of Mr. Nugent.

Bill Verwolf, City Manager, Helena, said that until the state got involved in the county welfare system, that system also paid indigent health costs for prisoners.

Alec Hanson, Montana League of Cities and Towns, said the bill could be dangerous financially for small towns. He stated that a \$10,000 medical bill could mean 10 mills for Thompson Falls or 30 mills for St. Ignatius.

Questions From Committee Members:

There were no questions from the Committee.

Closing by Sponsor:

Senator Mazurek made no closing comments.

ROLL CALL

SENATE JUDICIARY

COMMITTEE

52nd LEGISLATIVE SESSION -- 1989

Date 21 Jan 91

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.



OFFICE OF THE CITY ATTORNEY

435 RYMAN • MISSOULA, MT 59802-4297 • (406) 523-4614

Exhibit #8
SB58

January 18, 1991

91-028

Senate Judiciary Committee Members
Capitol Station
Helena, Montana 59620

RE: OPPOSITION TO SB-58 IN PART REQUIRING CITIES AND TOWNS TO PAY
CERTAIN MEDICAL COSTS OF ARRESTED PERSONS

Honorable Senate Judiciary Committee Members:

The purpose of this letter is to strongly oppose SB-58 in part
"REQUIRING CITIES AND TOWNS TO PAY CERTAIN MEDICAL COSTS OF
ARRESTED PERSONS" for the following reasons:

1. SB-58 creates new absolute financial liability for Montana's
cities and towns. The phrase in section 1(5) "Notwithstanding any
other provision of law" makes cities and towns in the factual
situations specified responsible for medical bills for all criminal
defendants whether:

- A) charged with a state law violation, or
- B) charged with a state parole violation, or
- C) charged with a city ordinance violation,

in all instances even where:

- A) the defendant has health insurance,
- B) the defendant has the financial ability to pay,
- C) the defendant is covered by general relief assistance
(welfare).

2. SB-58 is an attempt to erode the general rule throughout most of
the United States which the Montana Supreme Court adopted in
Montana Deaconess Medical Center v. Johnson and the City of Great
Falls, (1988) 758 P.2d 756, 758-759 when it extensively quoted and
relied on the Kansas Supreme Court's decision in Wesley Medical
Center v. City of Wichita, (1985), 703 P.2d 818, 824 the "nature of
the crime" charged against the defendant approach for determining
financial responsibility for prisoners stating in pertinent part as
follows:

. . . . We further hold that a county's liability
for charges and expenses for safekeeping and maintenance
of the prisoner, including medical expenses, does not
depend on which police agency happens to be called to the
scene of the alleged crime or whether such expenses were
incurred before or after he is placed in a county jail.

The controlling factor is that the prisoner was arrested and subsequently charged with violation of a state law.
(Emphasis supplied).

3. SB-58 constitutes double taxation of city and town property owners for this new financial liability for the reason that city and town property taxpayers are already paying county-wide property tax assessments for the operation of the county jail, sheriff's office, and general relief assistance (welfare); all of which would be available to the county sheriff in a similar factual situation.

4. SB-58 violates the Drake Amendment in Section 1-2-112 M.C.A. pertaining to state statutes imposing new local government duties because pursuant to the Drake Amendment SB-58 "must provide a specific means to finance the activity, service, or facility other than the existing authorized mill levies or the all-purpose mill levy."

5. Pursuant to Section 1(5) of SB-58 it would be too conveniently and easily possible for county officials to control whether a person incurring medical costs prior to potential incarceration even if confined in jail thereby conveniently passing off responsibility for the medical bills onto the city or town. For example:

A) county officials could simply claim that they do not want the individual in jail because of concern about the defendant's medical condition;

B) county officials could simply determine to release the defendant on his own recognizance;

C) county officials could lower bond for defendant so he could post bond without being confined;

D) county officials could contact a friend or relative of defendant and have bond posted prior to confinement;

E) if the defendant is hospitalized county officials could arraign the defendant at the hospital and make arrangements to have the defendant not be confined in jail upon his release from jail.

6. The defendant could die at the hospital emergency room or while in the hospital without ever having been confined and cities and towns would be absolutely financially liable. In Montana Deaconess Medical Center v. Johnson and City of Great Falls, supra, defendant was charged with three felonies A) aggravated assault, aggravated kidnapping and sexual intercourse without consent. In between the

Ex. 8

1-21-91

SB 58

Senate Judiciary Committee
January 18, 1991
Page Three

time of the offense and its report by the victim the defendant ingested "a quantity of prescription pills". If defendant had died at the hospital, pursuant to SB-58 the City of Great Falls would have been absolutely financially liable for the medical bills of this felony offender.

Yours truly,

A handwritten signature in cursive script that reads "Jim Nugent". The signature is written in dark ink and is positioned above the typed name and title.

Jim Nugent
City Attorney

cc: Legislation file; Jim Oberhofer

DATE 21 January 91

COMMITTEE ON Senate Judiciary

VISITORS' REGISTER

[illegible]

EXECUTIVE ACTION ON HOUSE BILL 69

Motion:

Discussion:

Valencia Lane explained that the amendments propose inserting "must be established by ordinance", on page 3, line 25, following Clerk of Court.

Senator Yellowtail suggested that following "The" on page 3, line 22, "position of" be inserted, and that following "court" "judge shall appoint a" be stricken.

Amendments, Discussion, and Votes:

Senator Towe made a motion that the amendments, as discussed, be approved. The motion carried unanimously.

Recommendation and Vote:

Senator Towe made a motion that HB 69 BE CONCURRED IN AS AMENDED. The motion carried 8-4 in a roll call vote (attached). Senator Towe will carry the bill.

EXECUTIVE ACTION ON SENATE BILL 58

Motion:

Senator Yellowtail made a motion that the amendments be approved (Exhibit #4).

Discussion:

Senator Yellowtail explained that a compromise was arrived at to remove subsection 5 on page 2, and that the final costs will be borne by the arresting agency, except for cities and towns.

Senator Yellowtail stated that all material on page 3, subsection 3 remains so that costs for a fugitive from justice from another state are borne by the state or origin.

Senator Towe asked who pays if a crime is committed in Billings and the criminal goes to Columbus where he or she is arrested. Senator Yellowtail replied that if the criminal is arrested under state law, the county pays.

Valencia Lane explained that existing language addresses medical costs on page 2, line 8, beginning with "except", and that

a similar provision on page 3, line 11 addresses confinement costs. She stated counties pay the cost if the arrest is not made in a city for a city ordinance, and that she did not believe there would be a change to existing law as amended. Ms. Lane stated the problem is current law only addresses post-confinement costs and not pre-confinement costs, and more specifically medical costs. She said the purpose of the bill is to clarify existing law and not to make any changes to that law.

Amendments, Discussion, and Votes:

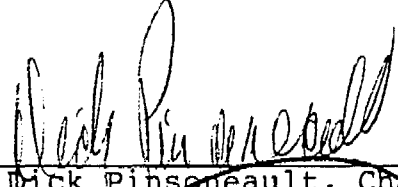
The motion made by Senator Yellowtail to amend SB 58 carried unanimously.

Recommendation and Vote:

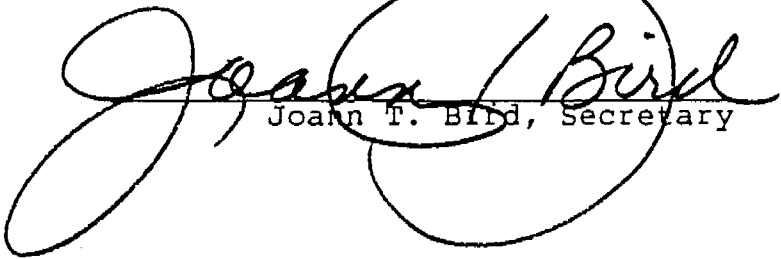
Senator Yellowtail made a motion that SB 58 DO PASS AS AMENDED. The motion carried unanimously.

ADJOURNMENT

Adjournment At: 11:55 a.m.



Senator Dick Pinsoneault, Chairman



Joann T. Bird, Secretary

DP/jtb

ROLL CALL

SENATE JUDICIARY

COMMITTEE

52nd LEGISLATIVE SESSION -- 1991

Date 4 Feb 91

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 4, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 58 (first reading copy -- white), respectfully report that Senate Bill No. 58 be amended and as so amended do pass:

1. Title, lines 6 through 8.

Following: "AN ACT" on line 6

Strike: remainder of line 6 through "CONFINED" on line 8

Insert: "REVISING THE LAW RELATING TO PAYMENT OF MEDICAL AND CONFINEMENT COSTS OF INCARCERATED PERSONS; CLARIFYING THAT MEDICAL AND CONFINEMENT COSTS OF INCARCERATED PERSONS MUST BE BORNE BY THE ARRESTING AGENCY, WITH AN EXCEPTION FOR CITIES AND TOWNS"

2. Title, lines 10 and 11.

Following: "BEHALF;" on line 10

Strike: remainder of line 10 through "PERSONS;" on line 11

3. Page 2, lines 5 and 6.

Following: "the" on line 5

Insert: "arresting"

Following: "agency"

Strike: "or authority at whose instance the inmate was arrested"

4. Page 2, line 7.

Strike: "or authority"

5. Page 2, lines 17 through 21.

Strike: subsection (5) in its entirety

6. Page 3, line 6.

Following: "an"

Insert: "arresting"

Following: "agency"

Strike: "or authority"

7. Page 3, line 10.

Following: "~~center~~"

Insert: ", as agreed upon by the arresting agency and the detention center,"

Following: "by the"

Insert: "arresting"

8. Page 3, lines 10 and 11.

Following: "agency" on line 10

Strike: remainder of line 10 through "confined" on line 11

9. Page 3, line 21.
Following: "~~unit~~"
Insert: "arresting"

10. Page 3, lines 21 and 22.
Following: "agency" on line 21
Strike: remainder of line 21 through "confined" on line 22

Signed: Richard Pinsoneault
Richard Pinsoneault, Chairman

RB 24/91
Amd. Coord.

SG 25.01 9.15
Sec. of Senate

Amendments to Senate Bill No. 58
First Reading Copy (White)

Ex 4
2-4-91
SB 58

Requested by Senator Yellowtail and Dept. of Justice
For the Committee on Judiciary

Prepared by Valencia Lane
January 29, 1991

1. Title, lines 6 through 8.

Following: "AN ACT" on line 6

Strike: remainder of line 6 through "CONFINED" on line 8

Insert: "REVISING THE LAW RELATING TO PAYMENT OF MEDICAL AND
CONFINEMENT COSTS OF INCARCERATED PERSONS; CLARIFYING THAT
MEDICAL AND CONFINEMENT COSTS OF INCARCERATED PERSONS MUST
BE BORNE BY THE ARRESTING AGENCY, WITH AN EXCEPTION FOR
CITIES AND TOWNS"

2. Title, lines 10 and 11.

Following: "BEHALF;" on line 10

Strike: remainder of line 10 through "PERSONS;" on line 11

3. Page 2, lines 5 and 6.

Following: "the" on line 5

Insert: "arresting"

Following: "agency"

Strike: "or authority at whose instance the inmate was arrested"

4. Page 2, line 7.

Strike: "or authority"

5. Page 2, lines 17 through 21.

Strike: subsection (5) in its entirety

6. Page 3, line 6.

Following: "an"

Insert: "arresting"

Following: "agency"

Strike: "or authority"

7. Page 3, line 10.

Following: "~~center~~"

Insert: ", as agreed upon by the arresting agency and the
detention center,"

Following: "by the"

Insert: "arresting"

8. Page 3, lines 10 and 11.

Following: "agency" on line 10

Strike: remainder of line 10 through "confined" on line 11

9. Page 3, line 21.

Following: "~~unit~~"

Insert: "arresting"

Ex. 4

2-4-91

SB58

10. Page 3, lines 21 and 22.

Following: "agency" on line 21

Strike: remainder of line 21 through "confined" on line 22

salaries to their closest level in the present pay matrix and requires the judges be given the same rate of increase that the state gives their state employees.

Questions From Committee Members:

REP. DARKO asked Jim Opedahl if the benefit package include the retirement system? Mr. Opedahl stated that the 18% includes the individual members contribution to the retirement system.

REP. RUSSELL asked Dean Burke if the judicial people presently have had a course in Indian Law and do you think that it is important? Dean Burke stated that he doesn't know if current members of the bench have a background in Indian Law but he felt it was important that law students have some Indian law background.

Closing by Sponsor:

SEN. YELLOWTAIL stated that we keep such a large responsibility on the state's judges in the judicial system. He stated that Sen. Svrcek appeared in opposition, but he refuses to recognize the fact that over the years we have granted no percentage increase for the states judicial. The state has kept a percentage increase for state employees. "I would ask the committee to seriously consider this bill in the context of responsibilities the judiciary is given."

HEARING ON SB 58
REQUIRING ENTITY TO PAY MEDICAL COSTS
OF ARRESTED PERSONS NOT LATER JAILED

Presentation and Opening Statement by Sponsor:

SEN. YELLOWTAIL, SENATE DISTRICT 50, stated that this bill arose from the work of the joint interim sub-committee on adult and juvenile detention. SB 58, as it stands, pertains to the use of detention centers dealing with costs. He felt the primary changes are to require that an out-of-state jurisdiction pays for confinement and the medical expenses.

Proponents' Testimony:

Dan Russell, Administrator - Divisions of Corrections, stated that SB 58 has some very serious fiscal problems for the state, especially for the Department of Institutions. The bill states the arresting agency is the agency that must carry the costs for medical. He stated that on behalf of the District Court the Department of Institutions also supervise probationers who are still under the legal jurisdiction of the court. He stated that as the supervising agency, probation and parole officers are also the "arresting agency" when placing probationers in jail. The cost of medical care and compensation of probationers is cost that would have to be paid by the Department of Institutions.

Those costs would be at least \$347,000 a year and an unknown amount of medical care that the Department would have to pay. The department has no appropriation to cover those costs. He gave the committee an amendment that he discussed with Sen. Yellowtail. EXHIBIT 7. He felt that Sen. Yellowtail was in support of the amendment proposed by the Department of Institutions.

Mick Robinson, Central Services Administrator - Department of Justice, stated that the Department of Justice has some administrative problems with the language regarding the payment to the detention centers. He stated that he had a proposed amendment that he handed out to the committee. EXHIBIT 8. He stated that the Department does not have any leverage in coming up with an agreed upon cost and the Department ends up paying the amount requested by the detention center. He felt if that was the intent the department would go along with it, but had no negotiating power. The amendment would include a dollar amount as the amount to be paid with an inflation clause connected with that so the amount does not stay stagnant.

Opponents' Testimony: NONE

Questions From Committee Members: NONE

Closing by Sponsor:

SEN. YELLOWTAIL stated that he would not have any problem with the amendments proposed by the Department of Institution. He felt that the amendment from the Department of Justice would lock in a specific figure and he was not comfortable with that amendment.

HEARING ON SB 51

Presentation and Opening Statement by Sponsor:

SEN. VAN VALKENBURG, SENATE DISTRICT 30, stated that SB 51 is a bill that many of the committee members have seen before. It is a product of 6 years of work by the Criminal Procedure Commission that was created in 1985 and has been working at revising the Montana Criminal Procedure Law at that time. He stated that it was the Criminal Procedure Commission's intention that the product would be adopted in rule fashion by the Montana Supreme Court. This bill is now being resubmitted in this session and the bill has the support of everyone who works in the Criminal Justice System in the state of Montana. He felt there would be some amendments proposed that will be mostly technical amendments. This is a bill that modernizes and recognizes changes in case law that has occurred over the past 25 years since Montana's Criminal Procedure Code was last revised and put into statute many of the common practices that occur in the

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 3-8-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	XXXX		
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

EXHIBIT 7
DATE 3-8-91
BB ~~58~~ 58

Amendments to Senate Bill 58
Third Reading Copy

by the Department of Institutions

Page 2, Line 17

Following: "the county"

Insert: Medical expenses for inmates detained as probation violators shall not
be a charge to the Department of Institutions.

Page 3, Line 22

Following: "the county"

Insert: Costs of confinement for probation violators shall not be a charge to
the Department of Institutions.

Proposed amendments to S.B. 58 (third reading copy):

1. Page 3, line 14, strike the language, "AS AGREED UPON BY THE ARRESTING AGENCY AND THE DETENTION CENTER,".
2. Page 4, line 3, insert a new sub-section (3), and re-number the current (3) to (4).

"(3) The confinement cost as used in 7-32-2242(2), is defined as:

- (a) \$35 for each prisoner day for the year ending June 30, 1992.
- (b) For the year beginning July 1, 1992, and on July 1 of each succeeding year, the previous year's cost shall be increased by the percentage change in the consumer price index as certified by the Bureau of Business and Economic Research of the University of Montana.
- (c) The Department of Justice shall compute the next year's rate, to the nearest whole dollar, and inform all county sheriffs or detention center administrators, by July 1, of the new rate."

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. SB#58
 DATE 3-8-91 SPONSOR(S) Sen. Yellowtail

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<u>Gordon Morris</u>	<u>PHAC</u>	<u>58</u>		☒

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Motion/Vote: REP. LEE MOVED BE CONCURRED IN AS AMENDED. Motion carried 15 to 4 with Rep's: Russell, Whalen, Measure, and Brown voting no.

EXECUTIVE ACTION ON SB 204

Motion: REP. MEASURE MOVED SB 204 BE CONCURRED IN.

Motion: REP. MEASURE moved to amend SB 204 by striking section 3 and section 7 and changing the title appropriately.

Discussion: REP. MEASURE stated his amendment is for the same reasons we have talked about regarding immunity all session.

Vote: Motion carried 11 to 9. EXHIBIT 2

Motion: REP. GOULD moved to amend SB 204 and asked John MacMaster to explain it to the committee.

Discussion: John MacMaster stated that the amendment would be on page 1, line 6, after the word "for" put in the word "first". On line 22, after the word "eight" and before the word "measure" put in the word "first". On page 4, it states the length of time you will lose your license on second and subsequent convictions and will have to be amended to apply to any conviction except for the first.

CHAIRMAN STRIZICH stated that we should try and allow some alternatives by limiting it to first offense it really crimps the effective use of this kind of a law. He stated he thought we should leave it the way it came in.

Vote: Motion failed.

Motion: REP. BROWN moved to amend SB 204 on page 1, line 22 after "a" insert "felony" and line 6 after "4", insert "felony".

Discussion: REP. BROWN stated that this penalty just applies to felony offenses. REP. BROWN emphasized he didn't want to make this kind of counselling mandatory for minor misdemeanor possession.

Vote: Motion carried 13 to 6. EXHIBIT 3

Motion/Vote: REP. LEE MOVED SB 204 BE CONCURRED IN AS AMENDED. Motion carried 19 to 1 with Rep. Gould voting no.

EXECUTIVE ACTION ON SB 58

Motion: REP. BROWN MOVED SB 58 BE CONCURRED IN.

Motion: REP. RICE moved to amend SB 58 with the Department of

Institution's amendments.

Discussion: John MacMaster stated that his interpretation of the amendments the way he reads the provisions will say the Department of Institutions does not have to pay. But, it does not say who is going to pay. If you don't say who is going to pay it, you are leaving a vagueness in the law.

REP. BROWN raised the question as to why should the local government pay those medical costs.

REP. TOOLE stated that it has been done that way for years and years.

REP. BROWN stated that it seems if you believe the state should assume the cost of the District Court, then some of these other expenses should also be taken off the back of the counties and put back on the state as well.

REP. TOOLE noted that if this cost is shifted, we are talking a lot of money. There are a lot of people on probation and counties have paid it all along and it should stay that way.

Vote: Motion passed 13 to 7 with Rep's: Brooke, Wyatt, Whalen, Russell, Darko, Measure, and Brown voting no.

Motion: REP. BOHARSKI moved to amend SB 58.

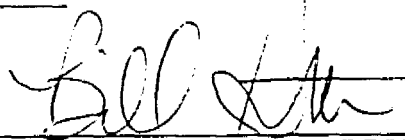
Discussion: REP. BOHARSKI described his amendment as stating that the state has to pay whatever the local cost is on a reasonable basis or actual cost. It will be a conceptual amendment for John MacMaster.

Vote: Motion passed unanimously.

Motion/Vote: REP. BROWN MOVED SB 58 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

ADJOURNMENT

Adjournment: 2 p.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 3-9-91

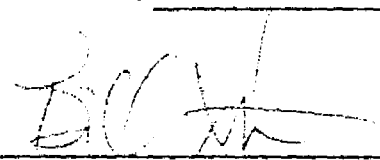
NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR			/
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI	/		
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
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REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE			/
REP. LINDA NELSON	/		
REP. JIM RICE	/		
REP. ANGELA RUSSELL	/		
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

HOUSE STANDING COMMITTEE REPORT

March 12, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 58 (third reading copy -- blue) be concurred in as amended.

Signed: 
Bill Strizich, Chairman

Carried by: Rep. Rice

And, that such amendments read:

1. Title, line 12.

Following: "TOWNS"

Insert: "AND AN EXCEPTION FOR THE DEPARTMENT OF INSTITUTIONS"

2. Page 2, line 17.

Following: "the county."

Insert: "Medical expenses for an inmate detained as a probation violator may not be charged to the department of institutions."

3. Page 3, lines 14 and 15.

Strike: "AS AGREED UPON BY THE ARRESTING AGENCY AND THE DETENTION CENTER"

Insert: "at a rate agreeable to the detention center and covering the reasonable confinement costs"

4. Page 3, line 22.

Following: "the county."

Insert: "Costs of confining a probation violator may not be charged to the department of institutions."